



U.S. Department of Justice

United States Attorney  
Southern District of New York

86 Chambers Street  
New York, New York 10007

January 23, 2020

By ECF

The Honorable Kevin N. Fox  
United States Magistrate Judge  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: *Chemoil Corp. v. United States of America*, 19 Civ. 06314 (ALC) (KNF)

Dear Judge Fox:

This Office represents the United States of America, the defendant in the above-captioned case. Plaintiff Chemoil Corp. (“Chemoil”) filed its complaint against the United States on July 8, 2019, seeking a refund of taxes and penalties assessed by the Internal Revenue Service (“IRS”) for the taxable quarter ending December 31, 2011. In its complaint, Chemoil alleges that it is entitled to alcohol fuel mixture tax credits that were disallowed by the IRS and related penalties that were collected by the IRS. The United States filed an answer to Chemoil’s complaint on December 9, 2019. I submit this report jointly on behalf of both parties pursuant to Federal Rule of Civil Procedure 26(f).

The parties conferred by telephone on January 9, 2020. The parties jointly propose the following discovery schedule in this matter:

- The parties will exchange initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1) by January 23, 2020. The parties will exchange descriptions by category, rather than copies, of documents on that date.
- The parties will serve their initial discovery requests by February 6, 2020.
- All fact discovery will be completed by June 9, 2020.
- Expert discovery will be completed by September 9, 2020.
- The parties will submit a letter to the Court before the close of fact discovery proposing interim deadlines for the exchange of opening and rebuttal expert reports. The parties believe that they will be better positioned to propose such a schedule after conducting initial fact discovery.

Chemoil has indicated that it will be seeking discovery related to the IRS’s review of Chemoil’s tax returns for the relevant period. The United States will be seeking discovery related to certain transactions Chemoil identified as underlying the alcohol fuel mixture credits to which Chemoil asserts it is entitled.

The parties do not currently anticipate particular challenges with respect to discovery of electronically stored information or issues of privilege. The parties do not propose any changes to the limitations on discovery imposed by the Federal Rules of Civil Procedure or any local rule.

If the Court requires further information from the parties, we will provide it promptly. We thank the Court for its consideration of this matter.

Respectfully submitted,

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